



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,245	10/10/2001	Robert W. Insalaco	3591-1155	9615

7590 12/16/2003
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,245

licant(s)

INSALACO ET AL.

Examiner

James O. Hansen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9,10,13,14,23-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-26,28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1-6,9,10,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 10 & 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, there are numerous instances where there is an inconsistency as to the claimed limitations rendering the scope of the claim unclear as to the metes and bounds of patent protection desired. A few examples are as followings: in line 6, the phrase "said at least one shelf member" is unclear since no "at least one shelf member" was previously disclosed [there is a first, second and third shelf member]; in line 8, the use of the term "which" is unclear as to the specific element being referenced ["which" should be changed to --said side panels--]; in lines 11-12, it is not clear if the "at least two said shelf members" are the same shelf members as previously recited in lines 9-10 or if the "shelf members" represent a combination of any of the previously defined first through third shelf members [the claim states that 'at least two side panels are clamped between at least two of the shelf members', wherein, 'a plurality of side panels' was earlier defined as being 'supported on a shelf member' while another shelf member is 'supported on the two side panels' – as such, the claim does not clearly indicate that the side panels clamped between the shelf members are the same panels that are supported on one shelf member and further support another shelf member since there are three shelf members specified in the "kit" while only two are further represented in relation to the plurality of side panels]. Appropriate correction is required. Consequently, the

Art Unit: 3637

remaining claims are rendered indefinite because they are dependent upon a rejected claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9-10 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misenheimer III [U.S. Patent No. 3,730,601] in view of Pauer et al., [U.S. Patent No. 5,234,267]. As to claims 1 & 10, Misenheimer (figures 1-8) teaches a storage unit/kit comprising: first, second and third horizontal shelf members (vertical 2's as depicted in fig. 1), the shelf members each comprising an insert (4) positioned through each corner of the shelf members; at least one first vertical panel (15) disposed between the first and second shelf members (below (15) and above (15) as noted in fig. 1), with a bottom of the first panel being supported on the first member, and the second member being supported on the top of the first panel, and at least a second vertical panel (an additional panel (15) as supported by the specification), wherein a bottom of the second panel is capable of being supported on the second member [forming another enclosure], and the third member being supported on the top of the second panel; at least a first tie member (6) extending between and connecting the first and second members with the first panel being clamped therebetween; and at least a second tie member (an upper 6) extending between and connecting the second and third members with the second panel capable of being

clamped therebetween. As to claim 2, the first panel comprises a securing member (viewed as (16) in as much as applicant's member is integrally formed with a respective panel) engaging a respective tie member. As to claim 3, the first panel comprises a pair of side panels, and a back panel (see the panels in fig. 4 for example and note col. 3, lines 11-27] extending between the side panels. As to claim 4, the first tie member comprises a pair of tie members (fig. 1 e.g.), wherein one of the tie members engages one of the side panels and back panel while another tie member engages an opposing side panel and back member (note the figures and spec.). As to claim 5, each of the panels comprise a securing member (as noted above), wherein the tie members are engaged by the securing members of the their respective panels (fig. 4). As to claim 6, at least three tie members are present (fig. 1), with one of the tie members engaging one of side panels (as noted above), and a front panel (17) pivotally attached to one (21 e.g.) of the tie members (note fig. 8). As to claim 9, the panels can be made of a translucent material [note col. 3, lines 11-13 – depends upon the thickness of the panels] in as much as applicant discloses the claimed feature. As to claim 13, each of the panels comprise a securing member [it is noted that the securing member of the front panel is viewed as being member (19)], wherein the tie members are engaged by the securing members of the their respective panels (fig. 4 e.g.).

Misenheimer teaches applicant's claimed invention substantially as disclosed above, but does not show the insert as being "threaded", or state that the panels are made of a translucent material. However, Pauer (figures 1-3) teaches of a storage unit comprising shelf members including threaded inserts (36, 37) for receiving respective tie members (32) in an analogous art. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the insert/tie

Art Unit: 3637

member of Misenheimer as taught by Pauer because this arrangement would provide Misenheimer with a relatively rigid frame since the threaded feature would reduce slippage between the insert and mating tie member thereby ensuring a more stable connection between these members. As to the type of material utilized, applicant states that the panels may be made of plastic, metal or wood [the latter is the same as the prior art]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to vary the type of material utilized to manufacture the panels since it was known to produce the panels out of known products and the selection of these products can depend upon personal preferences or a design criteria. Since the type of material is not functionally related in a new or unobvious way to the storage unit, the material will not distinguish the invention from the prior art in terms of patentability.

Allowable Subject Matter

5. Claim 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. Pending further consideration, Claims 23-26 & 28-29 are allowed.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blodee and Baker describe storage units.

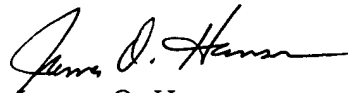
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.


James O. Hansen
Primary Examiner
Art Unit 3637

JOH
December 5, 2003